

US EPA ARCHIVE DOCUMENT

**STATEMENT OF SUSAN PARKER BODINE  
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U.S. ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE SUBCOMMITTEE ON  
SUPERFUND AND WASTE MANAGEMENT  
UNITED STATES SENATE**

**September 28, 2006**

Good morning, Mr. Chairman and members of the Committee. I am Susan Parker Bodine, Assistant Administrator for EPA's Office of Solid Waste and Emergency Response. I am pleased to be here today to discuss tracking hazardous waste shipments under the Resource Conservation and Recovery Act (RCRA). In particular, I will focus my remarks on the efforts underway at EPA to establish a national electronic manifest system, or e-Manifest, to track hazardous waste shipments more effectively and efficiently.

I will summarize EPA's current authority to track hazardous waste shipments under RCRA, and the paper-based manifest system that EPA and the Department of Transportation (DOT) established more than 25 years ago. In addition, I will describe EPA's ongoing efforts to revise and modernize the manifest system, including the effort underway to transition the manifest system from one that is very paper-intensive and burdensome to a system that will rely on information technology to track waste shipments. Finally, I will discuss the new statutory authorities that EPA will need in order to establish a national e-Manifest system that will meet our needs and the needs identified by our stakeholders.

EPA supports Chairman Thune's efforts and I look forward to working with the Committee to address any issues that may arise as the bill moves through the legislative process.

## HAZARDOUS WASTE CONTROL AND THE RCRA MANIFEST SYSTEM

Subtitle C of the Resource Conservation and Recovery Act establishes the statutory framework for the regulation of hazardous wastes. Pursuant to this, EPA has developed a comprehensive regulatory system prescribing "cradle-to-grave" controls on the generation, transportation, storage, and disposal of hazardous waste. As a threshold level of protection, Subtitle C of RCRA required that EPA establish a manifest system to ensure that hazardous wastes are designated for, and indeed arrive at, designated hazardous waste management facilities. The manifest requirement was the Congressional answer to episodes of "midnight dumping" in the hazardous waste transportation and management industries.

The manifest effectuates the very important function in our "cradle-to-grave" waste management system of documenting that the hazardous waste shipments that originate at a specific "cradle" or generator site arrive intact at the selected "grave" or waste management facility. The manifest collects information about the quantity, composition, origin, and destination of all hazardous waste shipments. The manifest also documents the actual chain of custody for a waste shipment, by recording in turn the signatures of the generator, the transporters, and the receiving facility responsible for handling the waste.

Under Section 3003(b) of RCRA, EPA is required to coordinate our waste transportation regulations with the Department of Transportation (DOT). This requirement exists in order to minimize duplication and ensure consistency between RCRA's hazardous waste transportation requirements and DOT's hazardous materials regulations. EPA's coordination with DOT has resulted in completing a hazardous waste manifest that assures compliance with DOT's requirements for completing a hazardous materials shipping paper.

The manifest system stems from the so-called Uniform Manifest that EPA and DOT

issued jointly in 1984. The Uniform Manifest is a multi-copy form that generators of hazardous waste must complete before hazardous wastes can be shipped off-site. There are minimal federal requirements that apply to all manifests. First, the generator is responsible for entering information that describes its wastes and that identifies the transporters and the waste management facility that will receive the waste. The manifest form is then physically carried with the waste shipment, and with each change of custody that occurs during transportation, a signature is obtained from the waste handler receiving custody. Each waste handler that signs the manifest must also retain a signed copy of the form among its company records to document its compliance. Finally, when the waste arrives at the designated waste management facility, that facility must sign the manifest and either verify that all the hazardous waste types and quantities were received, or identify any discrepancies. This final copy verifying receipts must then be sent to the generator, so that the generator receives confirmation of receipt by the designated facility.

Authorized state programs may require the submission of one or more manifest copies so that the data may be entered into the states' tracking systems. There are currently 24 such states that collect manifest copies, and these states use manifest data for program management, revenue collection, and enforcement purposes. The states that collect manifest copies generally must enter the data manually into their tracking systems.

All the manual processing steps described above add up to a very significant paperwork burden. We estimate that each year, hazardous waste generators prepare 2.4 to 5.1 million manifest forms, and that the completion and processing of all these forms results in an annual paperwork burden of between \$200 million and \$500 million.

## **BENEFITS of an E-MANIFEST SYSTEM**

EPA believes there are very significant benefits of an e-Manifest system -- both cost savings and program efficiencies for the regulated community and regulators.

One benefit of moving to an e-Manifest system is the cost savings that will result to manifest users and to the state agencies that collect manifests and process their data. When EPA began analyzing the business case for e-Manifest several years ago, we projected that an e-Manifest system that handled 75% of the current manifest traffic electronically could result in annual net savings of approximately \$100 million to users and to State agencies. Again, these substantial cost savings result primarily from eliminating all of the manual processing steps that are necessary to support the completion, carrying, signing, filing, and mailing of paper manifests and data.

However, a variety of other significant benefits also would be realized that are equally important, if not more important, to the hazardous waste program. An e-Manifest system would improve the overall effectiveness of the national hazardous waste tracking system and thus, provide increased protection to human health and the environment. I would like to highlight a few of these benefits.

First, we would expect that the e-Manifest would produce better quality data and more timely information on waste shipments. The e-Manifest could be developed with automatic quality checks that would identify data entry errors, and we would likely avoid many of the data interpretation errors that result currently from illegible handwritten entries or from illegible copies.

Second, the e-Manifest system would make it possible to have nearly real-time tracking capabilities for waste shipments. Users could check the status of shipments as needed, and

would no longer need to wait 30 days or more for paper copies to be mailed and processed before they could determine if their hazardous waste shipments have been delivered. This electronic tracking capability would also provide much more rapid notification of any discrepancies, delays, or other problems connected with a particular shipment.

Third, users could rely on the national e-Manifest system as their single point of contact for both their federal and state-required manifest data reporting. Since all states would be linked to the e-Manifest network, the submission of one e-Manifest to the national system also would supply necessary copies to all appropriate state programs. Thus, there would be one-stop reporting of manifest data.

Fourth, the e-Manifest system, with its ability to provide a single point of contact for transmitting and storing manifests, also would support enhanced inspection and enforcement capabilities. Federal or state regulators conceivably could inspect a facility's manifests and shipment data quite readily without having to go on-site for a labor-intensive inspection of paper records. Regulatory program management also would benefit by having access to manifest data that can be imported easily into a federal or state agency's tracking system, without having to re-enter data from paper forms.

Finally, the full implementation of e-Manifest could foster new data management possibilities, such as simplification or consolidation of existing requirements and systems for biennial reporting of hazardous waste data, for reporting of hazardous waste export and import data, and possible consolidation or streamlining of duplicative federal and state tracking systems.

## MANIFEST PROGRAM REVISIONS

Over the years, EPA has sought to improve the current manifest system. In May 2001, EPA proposed significant revisions to the manifest system. These proposed changes were motivated by EPA's desire to reduce the substantial paperwork burden that resulted under the 1984 Uniform Manifest requirements, as well as to enhance the effectiveness of the manifest as a means to track hazardous waste shipments. A key shortcoming of the 1984 Uniform Manifest was that it was not truly uniform. The Uniform Manifest included 11 "optional" data fields that authorized states could elect to incorporate into their state-specific manifest forms. Some 24 states in fact printed and distributed their distinct manifest forms, and generators were required to obtain the forms from either the state to which they shipped their waste, or from the state where the waste was generated. Thus, rather than having a truly "uniform" manifest, we instead had a system that featured many distinct manifest forms, which varied from state to state.

Therefore, the May 2001 proposed Manifest Revisions Rule included two distinct components: (1) proposed form revisions aimed at fully standardizing the manifest form; and (2) proposed electronic manifesting standards aimed at automating the exchange of manifest data and eliminating, as far as possible, the manual processes involved with using paper forms. The proposed form revisions met with strong support from public commenters, and a final rule announcing a fully standardized hazardous waste manifest was published in March 2004. The new standardized manifest form just went into effect on September 5th of this year. Now, everyone is using the same manifest form, and the optional fields that resulted in variability among manifest forms have been eliminated. This standardized manifest form also is an important first step in the establishment of an electronic manifest, since an electronic manifest would not be feasible to implement without a standardized format for the exchange of manifest

data.

While EPA enjoyed success with standardizing the paper manifest form, the electronic manifesting standards proposed in May 2001 generated a number of concerns from public commenters. The 2001 proposal suggested a decentralized approach to electronic manifesting, under which EPA would issue standards to govern the development of manifest systems by various private sector entities. Public commenters suggested that EPA's proposed decentralized approach was not cost-effective, as it would likely result in inconsistent proprietary systems being developed that could not communicate with each other nor provide the necessary data security. These comments expressed a strong preference for an alternative e-Manifest approach that featured one consistent, centralized and secure system for completing and transmitting electronic manifests.

As a result of these comment, EPA engaged in additional analysis of options and outreach with stakeholders before deciding on the future direction of the e-Manifest project. Therefore, in May 2004, EPA conducted a national stakeholders meeting to have a broader discussion of system alternatives, policy and technical issues, and funding options. Based on that input and feedback, and based on other discussions with interested parties since May 2004, the Agency has been exploring how it could develop and fund an e-Manifest system that would be centralized, secure, and sustainable, so that the regulators and users might realize the many benefits that are possible under an electronic system.

#### **A SUSTAINABLE E-MANIFEST**

EPA is convinced that a fee-based, centralized e-Manifest system has the greatest likelihood of succeeding. Because the manifest users would actually enjoy the greater part of the



benefits and cost savings that would result from using the e-Manifest, it seems fitting to the Agency and to the users themselves that the manifest users should fund the system development and operation costs. In addition, EPA already has the capability to host the e-Manifest system on the Agency's electronic reporting architecture known as the Central Data Exchange or CDX. Using EPA's CDX electronic reporting hub would ensure the legal validity and integrity of any e-Manifest records that would be transmitted. Further, this EPA system already has established links to networks operated by EPA and the states as part of the Environmental Information Exchange Network.

In early 2005, EPA sought to fund the development of the e-Manifest system under the Electronic Government Act of 2002 which authorized, on a pilot basis, a new contracting approach for federal information technology (IT) projects. The General Services Administration (GSA) was authorized to manage the program, and we worked closely with GSA to formulate a project plan and a procurement action for developing e-Manifest. Unfortunately, we were not able to complete the e-Manifest procurement activity before the expiration of the pilot authority in September 2005. EPA's final e-Manifest rule was not yet completed and issues remained about the legal sufficiency of the E-Gov Act provisions as a basis for EPA collecting and retaining user fees

## **STATUTORY AUTHORITY**

EPA's efforts in 2005 to initiate a fee-funded e-Manifest procurement under the pilot program helped us better understand what authorities were needed to pursue such an approach. First, legislation should authorize EPA to collect, retain, and use the fees collected to pay the costs associated with the development, operation, support, management, and future upgrade or

enhancement of the e-Manifest system. This authorization should explicitly provide that the monies collected as user fees are available to EPA to use for the payment of e-Manifest system costs, without fiscal year limitation.

Second, legislation should contain contracting provisions for e-Manifest that would authorize a performance-based contracting approach similar to the pilot program approach that was authorized in the Electronic Government Act of 2002. This would enable EPA and the IT vendor to enter into a procurement relationship under which the vendor would develop and operate a system meeting EPA's performance objectives.

Third, legislation should include provisions that will ensure that the e-Manifest system and the authorizing regulations developed by EPA could be implemented in all states. The e-Manifest can be successful as a cost savings project for users and a profitable venture for vendors only if it is assured that the e-Manifest will be implemented consistently in the states. The e-Manifest will not be successful if some states choose not to recognize the validity of electronic manifests, or if some states require a paper manifest to be completed in addition to an e-manifest. Similarly, EPA believes that the e-Manifest should be effective in all states as a federal requirement on the effective date designated in the authorizing regulation.

Thereafter, as authorized state programs revise their regulations to adopt e-Manifest and become authorized for this program modification, the e-Manifest would become effective as well under state law. However, to avoid confusion for users, and to assure that the IT vendor developing e-Manifest has a stable market, we need to be sure that e-Manifest will be effective as a federal requirement on the same date in all states.

## CONCLUSION

In summary, EPA supports the enactment of legislation that would allow EPA to establish a national e-Manifest system. We believe that such an electronic system can produce better tracking services for our citizens, better data for informed policy decisions and program management, greater accountability for how hazardous wastes are transported and managed, and provide cost savings to both the e-Manifest users and regulators. EPA looks forward to working with Congress to develop legislation which would provide EPA with the appropriate authorities to help us accomplish these goals and to provide for the development of an efficient, effective e-Manifest system.